



# New York City Settles Lawsuit Accusing Fire Dept. of Racial Bias

By Marc Santora and Michael Schwartz

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Years of legal wrangling over the racial makeup of the New York City Fire Department has led to a host of reforms, from a court-appointed monitor to a new entrance exam and an influx of recruiters into black and Hispanic neighborhoods.

On Tuesday, that long fight to diversify the overwhelmingly white department came to an end with an agreement to settle the case and pay nearly \$100 million in back pay and benefits to minorities whose efforts to join the department were thwarted by what courts have ruled were institutional biases.

For Mayor Bill de Blasio, who vigorously criticized the civil rights records of both the Police and Fire Departments during his campaign last year, the decision to settle the suit represented another sharp break from the Bloomberg administration.

“The brave men and women of the F.D.N.Y. work tirelessly to keep us safe from harm’s way — and our administration is committed to ensuring every New Yorker who seeks to take on this heroic role has a fair opportunity to join the ranks,” Mr. de Blasio said in a statement.

Soon after taking office, Mr. de Blasio announced a settlement with civil rights groups that argued that the Police Department’s stop-and-frisk practices unfairly targeted minorities. He then announced that the city would no longer seek to block a new law that allowed lawsuits against individual police officers accused of racial profiling.

As part of the settlement on Tuesday, the Fire Department agreed to create a chief of diversity and inclusion, who will report directly to the fire commissioner, as well as a diversity advocate who will monitor hiring practices and cadet training for discrimination.

The department also agreed to commit to ensuring that the pool of future exam takers be proportional to the overall labor market in New York City. Out of over 42,000 people who took the last exam in 2012, over 19,000 were black, Hispanic or Asian. More than half of New York City residents identify as a member of a minority group.

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The city will also pay \$98 million in back pay, including \$6 million in medical benefits, to those who filed claims alleging discrimination and who have already been found eligible for relief by the court.

“We are pleased with the settlement and we are optimistic that this represents a first step by the de Blasio administration to ensure that fair and equal hiring practices become the standard in the F.D.N.Y. from this day forward,” said John Coombs, the president of the Vulcan Society, which represents the black applicant who filed the original complaint against the department.

The court battle began in 2007, when the United States Justice Department filed a lawsuit against the department after the Vulcan Society complained that the entrance exams used by the department were biased against minority applicants.

At the time, the department was over 90 percent white and a federal judge ruled that the entrance examination was in violation of civil rights laws and the United States Constitution.

The court ordered the creation of a new exam and reforms in hiring practices for applicants who failed exams given in 1999 or 2002. The judge, Nicholas G. Garaufis, appointed Mark S. Cohen to oversee the reforms.

However, a federal appeals court in Manhattan ruled last spring that the department to revamp its hiring process.

While the city did not dispute the lower court ruling that the entrance exam was discriminatory, it argued that the discrimination was unintentional. The question of whether it was intentional not only affected the reputation of the department, but also was critical in determining damages.

The appeals court ruled that there were enough questions about the impartiality of Judge Garaufis to require assigning another judge to determine whether the discrimination was intentional.

At the same time, the court left in place many of the remedies ordered by Judge Garaufis, including the appointment of a court monitor. The city has agreed to have Judge Garaufis oversee the implementation of the settlement.

Even as the litigation dragged on, a transformation began to take place in how the department recruited black and Hispanic firefighters. A new exam designed to eliminate biases against minority applicants was created under the direction of Mary Jo White, the current head of the Securities and Exchange Commission. The department increased recruiting in minority neighborhoods and held special training sessions designed to prepare new recruits for the rigorous training at the academy.

From 2002 to 2013, the percentage of minorities in the department grew to 16 percent from 8 percent, according to the Fire Department.

In December, the most racially diverse cadet class in the history of the 148-year-old department graduated from the fire academy.

While the department is about 85 percent white, over 60 percent of the newly installed probationary firefighters are minorities.


“We’re pleased this case has been settled and look forward to our next firefighter exam when we hope to attract even more people of color,” said Salvatore J. Cassano, the Fire Department commissioner.

Though members of the Vulcan Society and their legal advisers praised Tuesday’s settlement, they said it was still unclear how the reforms would translate within the city’s 200 or so firehouses where efforts to diversify have been met with skepticism and sometimes hostility.

“We’ve had some really great court decisions in this case that required the city to change a lot of things,” said Darius Charney, a lawyer with the Center for Constitutional Rights who has worked with the Vulcan Society. “But until those changes filter down into the firehouse and we see a change in the culture of the firehouse, a lot of this stuff is really not going to take hold.”

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